

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 JEFFREY M. PHILLIPS  
Deputy Attorney General  
4 State Bar No. 154990  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-6292  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**

10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2013-568*

12 **MISTY JAYNE DIEDRICH, aka**  
13 **MISTY JAYNE LESTER DIEDRICH, aka**  
14 **MISTY DIEDRICH**  
21250 Tanglewood Drive  
Harrah, Oklahoma 73045

**A C C U S A T I O N**

15 **Registered Nurse License No. 594819**

16 Respondent.  
17

18  
19 Louise R. Bailey, M.Ed., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the Executive  
22 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

23 **Registered Nurse License**

24 2. On or about February 15, 2002, the Board issued Registered Nurse License Number  
25 594819 to Misty Jayne Diedrich, also known as Misty Jayne Lester Diedrich and Misty Diedrich  
26 ("Respondent"). The registered nurse license expired on November 30, 2003, and has not been  
27 renewed.

28 ///

1 **JURISDICTION**

2 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that  
3 the Board may discipline any licensee, including a licensee holding a temporary or an inactive  
4 license, for any reason provided in Article 3 (commencing with Code section 2750) of the  
5 Nursing Practice Act.

6 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
7 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
8 to render a decision imposing discipline on the license. Under Code section 2811, subdivision  
9 (b), the Board may renew an expired license at any time within eight years after the expiration.

10 5. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a  
11 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the  
12 period within which the license may be renewed, restored, reissued, or reinstated.

13 **STATUTORY PROVISIONS**

14 6. Code section 2761 provides, in pertinent part:

15 The board may take disciplinary action against a certified or licensed nurse or  
16 deny an application for a certificate or license for the following:

17 (a) Unprofessional conduct.

18 (4) Denial of licensure, revocation, suspension, restriction, or any other  
19 disciplinary action against a health care professional license or certificate by another  
20 state or territory of the United States, by any other government agency, or by another  
California health care professional licensing board. A certified copy of the decision  
or judgment shall be conclusive evidence of that action.

21 **COST RECOVERY**

22 7. Code section 125.3 provides, in pertinent part, that the Board may request the  
23 administrative law judge to direct a licensee found to have committed a violation or violations of  
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
25 enforcement of the case.

26 ///

27 ///

28 ///

1 CAUSE FOR DISCIPLINE

2 (Out-of-State Discipline)

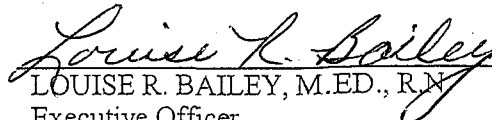
3 8. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4),  
4 on the grounds of unprofessional conduct, in that Respondent was disciplined by the Oklahoma  
5 Board of Nursing. Effective January 31, 2012, pursuant to a *Stipulation, Settlement and Order*  
6 filed by the Oklahoma Board of Nursing, Respondent voluntarily surrendered her nursing license  
7 with terms and conditions. A copy of the *Stipulation, Settlement and Order* is attached hereto as  
8 **Exhibit A** and incorporated herein by reference. The basis of said discipline is that on or about  
9 May 18, 2010, while employed as a registered nurse with OU Medical Center, Respondent  
10 diverted morphine for her own personal use. Further, on or about June 22, 2010, Respondent  
11 voluntarily entered the Oklahoma Board of Nursing Peer Assistance Program, from which she  
12 was terminated on or about October 20, 2011, for failure to comply with its terms and conditions.

13 **PRAYER**

14 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Board of Registered Nursing issue a decision:

- 16 1. Revoking or suspending Registered Nurse License Number 594819, issued to Misty  
17 Jayne Diedrich, also known as Misty Jayne Lester Diedrich and Misty Diedrich;  
18 2. Ordering Misty Jayne Diedrich, also known as Misty Jayne Lester Diedrich and  
19 Misty Diedrich, to pay the Board of Registered Nursing the reasonable costs of the investigation  
20 and enforcement of this case, pursuant to Code section 125.3; and,  
21 3. Taking such other and further action as deemed necessary and proper.

22  
23 DATED: JANUARY 18, 2013

  
LOUISE R. BAILEY, M.ED., R.N.  
Executive Officer  
Board of Registered Nursing  
State of California  
Complainant

24  
25  
26 SA2012107204  
27 10948440.doc  
28

**EXHIBIT A**  
*Stipulation, Settlement and Order*  
*Oklahoma Board of Nursing*

BEFORE THE OKLAHOMA BOARD OF NURSING

IN THE MATTER OF MISTY JAYNE LESTER DIEDRICH, r.n.  
LICENSE NO. R0069093 (SUSPENDED)

STIPULATION, SETTLEMENT AND ORDER

This matter comes on before the Informal Disposition Panel ("Panel") of the Oklahoma Board of Nursing ("Board") on the 17<sup>th</sup> day of January, 2012, in the Conference Room of the Board Office, 2901 North Classen Boulevard, Suite 105, Oklahoma City, Oklahoma.

Jan Sinclair, R.N., a Nurse Investigator with the Board, appears in person, and Misty Jayne Lester Diedrich, r.n., (hereinafter, "Respondent") appears neither in person nor by counsel before the Panel on this date. Respondent and the Nurse Investigator participated in a telephonic conference on November 7, 2011, and subsequently consented to this Stipulation, Settlement and Order ("Order").

STIPULATION

Respondent and the Panel hereby stipulate and agree to the following joint stipulation and proposed Order of the Board incorporating this stipulation and agreement in the above-styled matter.

1. Respondent is licensed to practice registered nursing in the State of Oklahoma and is the holder of License No. R0069093 issued by the Oklahoma Board of Nursing.
2. On or about May 18, 2010, Respondent, while employed with OU Medical Center in Oklahoma City, Oklahoma, as staff nurse in the Emergency Department, diverted controlled dangerous substances, Morphine, for her personal use. Respondent was subsequently terminated.

3. On or about June 22, 2010, Respondent voluntarily entered the Peer Assistance Program after diverting Morphine from her employer, OU Medical Center in Oklahoma City, Oklahoma, for her own personal use, as shown on the Oklahoma Board of Nursing Peer Assistance Program Initial Interview Data and Peer Assistance Program Application, copies of which are attached hereto as Exhibit "A" and made a part hereof.

4. On or about October 20 2011, Respondent was terminated from the Peer Assistance Program for failure to comply with the terms and conditions of the Contract and Amended Contracts with the Peer Assistance Committee, as described in the Peer Assistance Program Summary of Participation, copies of which are attached hereto as Exhibit "B" and made a part hereof.

5. Respondent has voluntarily surrendered the license to practice nursing in the State of Oklahoma held by the Respondent.

6. No formal complaint has been filed as of the date of this stipulation charging Respondent with a violation of the Oklahoma Nursing Practice Act. Respondent understands that Respondent has a right to require that a formal complaint be filed and the right to a formal hearing before the Board at which time Respondent could confront the witnesses against Respondent, cross-examine those witnesses, and present evidence in Respondent's own behalf. Respondent understands that by signing and agreeing to this stipulation Respondent is waiving those rights.

7. This stipulation is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of this stipulation. Furthermore, should this joint stipulation not be

accepted by the Board, it is agreed that presentation to and consideration of this stipulation and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

8. Respondent fully understands and agrees that this joint stipulation and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board against Respondent for acts or omissions not specifically made a part of this stipulation.

9. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of this joint stipulation of facts, conclusions of law and imposition of discipline, and the Final Order of the Board incorporating said stipulation.

10. It is expressly understood that this stipulation is subject to approval of the Board and has no force and effect until approved and Ordered by the Board.

11. This Stipulation, Settlement, and Order does constitute formal disciplinary action.

#### STIPULATED DISPOSITION AND ORDER

IT IS THEREFORE ORDERED by the Oklahoma Board of Nursing that the voluntary surrender of Respondent's license should be accepted, upon the following terms and conditions.

1. Any Application to Reinstate any nursing license shall not be considered for the period of two (2) years.

2. Any Application to Reinstate any nursing license shall not be considered until Respondent furnishes proof of compliance with this Board's Guidelines for Individuals Requesting Reinstatement After Suspension, Surrender or Revocation for Misappropriation or Misuse of

Drugs/Alcohol, a copy of which is attached hereto and made a part hereof. Respondent must also submit evidence of the continued qualifications for practice as set forth in the applicable Statutes and Rules of the Oklahoma Board of Nursing in effect at the time of Respondent's reinstatement.

3. Prior to reinstatement, Respondent shall pay an administrative penalty payable to the Oklahoma Board of Nursing in the amount of \$1,000.00. The administrative penalty shall be paid only by certified check, money order or cash.

4. Upon Reinstatement, Respondent's license will be immediately placed in temporary suspension pending readmission to the Peer Assistance Program. Respondent shall provide documentation, satisfactory to the Board, of Respondent's acceptance into the Peer Assistance Program within sixty (60) days of reinstatement.

5. If Respondent is not accepted into the Peer Assistance Program within sixty (60) days of reinstatement, or having been accepted is terminated from the Program for any reason other than successful completion of Respondent's contract and treatment plan, Respondent's license is hereby revoked for a period of five (5) years.

6. In the event the Certified Mail delivery of Respondent's Order is unsuccessful a process server will be hired to obtain service of the Order. If the Respondent is served by a process server the Respondent shall reimburse the Board for the actual cost of the process server. The Respondent shall pay to the Board the actual cost of the process service, prior to reinstatement. The process service fee shall be paid only by certified check, money order or cash to the Board.

IT IS FURTHER ORDERED that the parties agree that both (all) parties have participated in the drafting of this Order and that no presumption or construction against any party as the drafter of this Order, shall apply or be applied in the event of a claim of ambiguity of the document or a provision thereof.



IT IS FURTHER ORDERED that this Order shall not be effective until the fully executed Order is received in the Board office.

IT IS FURTHER ORDERED that upon successful completion by Respondent of Respondent's Contract, Amended Contract(s), and treatment plan with the Peer Assistance Program, no further Order of the Board shall be deemed necessary.

IT IS FURTHER ORDERED that this Order constitutes disciplinary action by the Board and may be used in any subsequent hearings by the Board. In the event other misconduct is reported to the Board, this Order may be used as evidence against Respondent to establish a pattern of behavior and for the purpose of proving additional acts of misconduct.

Misty Quebr  
Respondent

Approved and ordered this 31<sup>st</sup> day of January, 2012.



OKLAHOMA BOARD OF NURSING

By:

J. M. Mearl  
President

JS:sr